

### REMARKS

Claims 1-20 are pending.

The claims were rejected as unpatentable over the U.S. Patent No. 6,939,058 (Gurevich et al.).

Claim 1 has been amended based, in part, on the features of original claim 9. In particular, claim 1 now recites that the module includes a pole for supporting the optical path routing element, and a bench for mounting the pole. In addition, claim 1 recites that the pole is disposed in a space between the light emitting device(s) and the light receiving device(s).

An example of the pole is illustrated in FIG. 1 of the pending application and is identified by reference numeral 15. The bench is indicated by reference numeral 14a. As can be seen from the figure, the pole 15 is disposed in a space between the laser diode 10 and the photodiode 11. (*See also* par. [0027] of the corresponding application as published.)

The claimed subject matter is advantageous. For example, as explained in the pending application, in some implementations:

Arranging the pole between the light emitting device and light receiving device is preferable since light from the light emitting device is thereby prevented from straying onto the light receiving device.

(Par. [0027])

The Office action (at page 3) acknowledges that the Gurevich et al. patent does not disclose a pole for supporting the mirrors 152, 162, which allegedly correspond to the claimed "optical path routing element." Instead, as disclosed by the Gurevich et al. patent, the mirrors 152, 162 are supported by beveled surfaces of lugs 134, 146 formed on the housing 122. Each of the lugs 134, 136 is located above a respective one of the light emitting or receiving devices 142, 148. Even if each of the lugs were considered to correspond to the claimed "pole," and even if the upper part of the housing 22 were considered to correspond to the claimed "bench," the lugs are not located in a space "between" the devices 142, 148 as recited in pending claim 1. As can

be seen, for example, from FIGS. 1 and 2 of the Gurevich et al. patent, the lugs 134 (34), 136 (36) are located entirely above the devices 142 (42), 148 (48).

The Office action, however, alleges that it would have been obvious to provide a pole to as to obtain a "more compact device" and "reduce the total real estate" occupied by the CAN. That is incorrect.

In the Gurevich et al. patent, the devices 142 (42), 148 (48) are located in openings at the bottom of the housing 122 (22), whereas the lugs 134 (34), 136 (36) are formed on the top of the housing. That arrangement is completely different from the claimed subject matter, and it would have made no sense to somehow place on or both of the lugs "between" the devices. Accordingly, a person of ordinary skill would not have been motivated to modify the disclosure of the Gurevich et al. patent to obtain the subject matter of claim 1 as amended.

At least for the foregoing reasons, claim 1, as well as the dependent claims, should be allowed.

The dependent claims include features that make those claims independently patentable. For example, claims 9 through 12 recite a cap that covers the pole and the bench, with a lens provided in the cap. An example of those features is illustrated in FIG. 1 of the pending application, in which the cap is identified by reference numeral 14b and the lens is identified by reference numeral 13.

The conclusory statements in the Office action that such features, or the subject matter of any of the claims as a whole, would have been obvious, is unsupported. In particular, the Gurevich et al. patent does not disclose a cap or other cover, and the lens 178 (78) is not located in any cover.

At least for those additional reasons, the dependent claims should be allowed.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above

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may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 6/21/06

  
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